



# MISSOURI PROSECUTOR

JANUARY 2006

Volume 13, Issue 1

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*Gonzales v. Oregon* - Physician-Assisted Suicide  
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## NOTES & NEWS



### MAPA Officers for 2006 Named

The MAPA Board and Past Presidents met on January 11, and elected the following officers for 2006.

- ✓ **President**—John Kay, Moniteau County
- ✓ **Vice-President**—Kevin Crane, Boone County
- ✓ **Secretary**—Mike Hazel, Pemiscot County
- ✓ **Treasurer**—Scott Watson, Newton County
- ✓ **Immediate Past-President**—Bob Wilkins, Jefferson County

## PROTECTING LIVES, SAVING FUTURES (FREE TRAINING)



Time is running out to register for the *Protecting Lives, Saving Futures* course offered by the MOPS office with a grant through the Division of Highway Safety. Prosecutors / Assistants interested in attending should send their registration (**page 15**) to the MOPS office as soon as possible. The training will be held March 1-3, 2006 in Columbia, MO.

For more information contact Bev or Susan at the MOPS office.

## Multidisciplinary Investigation of Child Abuse, Exploitation and Fatalities (FREE TRAINING)

The Missouri Department of Social Services in conjunction with the Missouri Children's Trust Fund, the Missouri Task Force on Children's Justice Act, the Missouri Police Chiefs Association, and the St. Louis University School of Medicine-Department of Pathology, is offering free training at various locations across the state.

See [page 13](#) of this newsletter for more information.



## SCHEDULE OF EXPENDITURE OF FEDERAL AWARDS

*"Ever so often I get a call from a county wanting to know if the reimbursement they receive from child support is considered a federal award. Yes it is, and your county needs to include these monies on the Schedule of Expenditures of Federal Awards. These monies are passed down from the U.S. Department of Health and Human Services. As you all know, 66% comes from federal financial participation and 34% comes from incentives from the feds. The only monies not considered federal would be the 34% of the multi-county projects personnel costs. These multi-county personnel costs come from the CSEC fund. The CSEC fund comes from the monies we collect and retain on those cases where the CP is on TANF."*

Diane L. Salisbury, [Diane.L.Salisbury@dss.mo.gov](mailto:Diane.L.Salisbury@dss.mo.gov)

## Office of the Missouri State Auditor

### 2005 CAFA SEIZURES REPORTS

CAFA Seizure Reports should be sent to the State Auditor and the Department of Public Safety by January 31, 2006.

Under Section 513.607.8, RSMo, of CAFA, the prosecuting attorneys or Attorney General to whom seizures are reported shall report annually to the State Auditor and to the Director of Public Safety by January 31, information on all reported seizures for the previous calendar year.

A blank form is included in this newsletter on [page 14](#).



The 22nd annual MoVA Conference will be held March 22-24, 2006 in historic St. Joseph, MO.

CLE's are available for this conference.

Registrations may be submitted online at

<http://mova.missouri.org>.

For additional information you may contact Jennifer Miller at (816) 234-5205 / [jmiller@kcpd.org](mailto:jmiller@kcpd.org)



## ASSISTANT PROSECUTING ATTORNEY RANDOLPH COUNTY, MISSOURI

Applications are being accepted for the position of Assistant Prosecuting Attorney for Randolph County. Salary is commensurate with experience. Duties include criminal prosecution of felony and misdemeanor cases—including arraignments, motions, plea agreements, probation violation proceedings, depositions, and jury trials and acting as legal counsel to Randolph County as needed.

Minimum requirement of juris doctorate degree. Health and retirement benefits available. Applications will be accepted until the position is filled.

Applications should be submitted via resume with three professional references to the office of: Randolph County Prosecuting Attorney, 200 East Rollins Street, Moberly, MO 65270

*Randolph County is an EOE/affirmative action employer.*

## SENIOR ATTORNEY—CHILD ABUSE AMERICAN PROSECUTORS RESEARCH INSTITUTE

APRI has a senior attorney position available in the field of child physical and sexual abuse. Candidates must have substantial experience investigating and prosecuting child abuse cases, and in-depth knowledge of various topics including child sexual exploitation, parental abduction, child deaths and physical abuse, sexual abuse and criminal neglect.

Note that this position requires relocation to the Washington D.C. Metro area.

To submit an application, send a cover letter, resume, and writing sample to:

Human Resources  
American Prosecutors Research Institute  
99 Canal Center Plaza, Suite 510  
Alexandria, VA 22314

Please identify the position you are applying for in the application materials and include your salary requirement.



## ISSUES IN PSYCHIATRIC DEFENSES

February 16, 2006  
Millennium Hotel, St. Louis, MO

The United States Attorney's Office will present a conference on *Issues in Psychiatric Defenses: Medical Science and Technology* on February 16, 2006 at the Millennium Hotel in St. Louis.

This seminar will focus on what neuroscience and clinical psychiatry can and cannot do in assessing and describing the cognitive capacities of the defendant.

This will aid prosecutors in deciding whether to make a Daubert challenge to a defendant's expert and in finding the right way to respond in Court.

A brochure with registration information is included on [pages 16-17](#) of this newsletter.



**WITNESS PROTECTION ASSISTANCE IS  
AVAILABLE THROUGH THE MOPS OFFICE.  
FOR INFORMATION, YOU MAY CALL SHERI  
AT (573) 522-1838.**

## THE NATIONAL CENTER FOR PROSECUTION ETHICS WWW.ETHICSFORPROSECUTORS.COM

The website of the National Center for Prosecution Ethics has been improved and is now more user friendly.

Visit <http://www.ethicsforprosecutors.com> and see the difference!

The website now offers the following free research information focusing on issues of interest to prosecutors:

- ▶ topical index of ethics opinions;
- ▶ topical index of disciplinary opinions;
- ▶ topical index of appellate decisions;
- ▶ state-by-state index of ethics opinions, disciplinary opinions and appellate decisions;
- ▶ topical index of secondary resources; and
- ▶ quotations on the prosecution function

While thousands of opinions have been reviewed and hundreds have been summarized for these indexes, not all states are yet represented. The research necessary for the creation and maintenance of these indexes is ongoing and the Center will be adding, on a regular basis, new summaries. The Center needs your help — if you know of opinions that have not yet been included on the website, please send that information to [ethics@law.law.sc.edu](mailto:ethics@law.law.sc.edu).

The MEMBERS-ONLY FORUM for prosecutors has also been updated. Members are now able to request that they be notified by email upon the posting of new information or requests for assistance. A tutorial is available on the Forum to help you sign up for this service.

## NOTICE:



ALL office phone and fax numbers for the National College & National Advocacy Center changed

**EFFECTIVE  
JANUARY 17, 2006.  
PLEASE make a note!**  
Phone: 803-705-5005  
Fax: 803-705-5301





The MOPS office has started an index of opinion topics included in the monthly Caselaw Update, beginning with October 2004. If you would like a copy, please contact Sheri at the MOPS office.

### UNITED STATES SUPREME COURT

#### ► *Batson v. Kentucky*

**Rice v. Collins, No. 04-52 (U.S.S.C. January 18, 2006).** Grant of habeas corpus relief from a state conviction for possession of cocaine with intent to distribute pursuant to defendant's *Batson* challenge is reversed where the circuit court improperly substituted its evaluation of the record for that of the state trial court.

#### ► *Physician-Assisted Suicide*

**Gonzales v. Oregon, No. 04-623 (U.S.S.C. January 17, 2006).** The Controlled Substances Act does not allow the Attorney General to prohibit doctors from prescribing regulated drugs for use in physician-assisted suicide under state law permitting the procedure.

#### ► *Sentencing – Federal Courts*

**US v. Sheikh, No. 05-1747 (2d Cir. January 13, 2006).** After *US v. Booker*, federal district courts may continue to calculate guidelines sentences and sentence defendants based on facts not alleged in the indictment without violating the Fifth or the Sixth Amendment, as long as those facts do not increase the penalty beyond the prescribed statutory maximum sentence or trigger a mandatory minimum sentence that simultaneously raises a corresponding maximum.

### MISSOURI SUPREME COURT

#### ► *Hearsay/Evidence of Other Crimes*

**State v. Earl M. Forrest, No. SC86518 (Mo. Banc January 10, 2006).** The Court affirmed defendant's conviction of three counts of first degree murder and sentence of death, holding that hearsay testimony by two police officers about the shootout was not so prejudicial as to require reversal. The court properly admitted evidence of defendant's alleged possession and distribution of illegal drugs in California during the penalty phase. Although defendant was not charged with these crimes, the state was permitted to introduce it during the penalty phase trial as evidence of defendant's character.

#### ► *Criminal Non-Support/ Batson v. Kentucky*

**State v. Clifton Clyde Reed, Jr., No. SC86803 (Mo. Banc January 10, 2006).** There was sufficient evidence to support convictions for felony of criminal non-support. No child support order is required to prove "knowingly" failing to provide support under section 568.040.1, RSMo 2000. Every parent has a legal obligation to provide for his or her children regardless of the existence of a child support order. *State v. Morovitz*, 867 S.W.2d 506 (Mo. banc 1993). The uncontroverted evidence here showed that defendant and his ex-wife had two children together, that he admits he is the children's father and that he provided virtually no support for the children during the charged periods. By admitting he is the children's father, defendant necessarily admitted that he had a legal obligation to provide adequate support for the children, and he necessarily admitted that he knew of this legal obligation.

The Court found no pretext behind the state's use of seven peremptory challenges to remove all men from the jury pool in violation of *Batson v. Kentucky*, 476 U.S. 79 (1986). During jury selection, the state used all seven of its peremptory challenges to strike men from the jury pool. The trial court's finding that the state's reasons for peremptorily striking men – based on their employment, the way they dressed, their facial expressions and the way they were paying attention – were gender-neutral was not clearly erroneous.

#### ► *Postconviction Motions - Timeliness*

**Jessie Carter v. State No. SC87074 (Mo. Banc January 10, 2006).** The motion court erred in dismissing the Rule 29.15 motion as untimely when movant filed the original unsigned motion within the 90-day time frame, albeit in the wrong court. After the court forwarded the motion to the proper court, and after being alerted to the lack of signature by his court-appointed attorney, movant promptly corrected the omission by filing a signed amended motion.

#### ► *Effective Assistance of Counsel*

**Michael Tisius v. State, No. SC86534 (Mo. Banc January 10, 2006).** The motion court properly denied relief on movant's claims involving numerous claims of ineffective assistance of his first-degree murder conviction, including: (1) The prosecutor's evidence and argument that a gun used in the shootings was taken by stealth were not false but were relevant to the issue of whether movant deliberated. His trial counsel was not ineffective in not objecting to the prosecutor's evidence and argument, and his argument that his appellate

**MISSOURI SUPREME COURT continued*****Michael Tisius v. State continued***

counsel was ineffective for failing to raise the issue on appeal lacks merit. (2) Trial counsel was not ineffective in not retaining a handwriting expert to authenticate a letter providing details of the escape plan. The letter was not relevant to movant's state of mind when he shot the guards, does not show that he did not deliberate before killing the guards and does not show that he was under the control of others. (3) Movant failed to prove his counsel was ineffective for failing to object to the admission of and references to a T-shirt that he claims improperly allowed the jury to speculate that he was associated with an antisocial group. He did not present evidence as to what, if anything, the shirt referenced or meant. (4) Counsel was not ineffective for declining to object to the verdict directors for first and second-degree murder. The objection is foreclosed by settled legal authority. The instruction properly states the statutory definition of "deliberation." (5) Counsel also is not ineffective for declining to object to the instruction defining "reasonable doubt" as this Court has rejected this issue repeatedly. (6) Appellate counsel was not ineffective in not raising, on direct appeal, issues regarding the admission and display on a large screen of 10 autopsy photos of the two victims. Appellate counsel had a reasonable strategic motive for not objecting to admission of the photographs, which were relevant to the issues of deliberation and intent. (7) Trial counsel was not ineffective for not objecting to certain statements by the prosecutor during jury selection and in closing arguments. The prosecutor's comment that he had requested assistance from the attorney general in the case did not prejudice him. His allegations that the jury did not follow the court's instructions are speculative and do not overcome the presumption that the jury followed the instructions. The court properly instructed the jury on lesser-included offenses with an instruction tracking the model-approved instruction. The prosecutor's arguments about certain evidence were not inconsistent with the evidence, from which the prosecutor may argue reasonable inferences. The prosecutor properly used photographs of the victims' bodies during closing arguments. The prosecutor's rebuttal argument permissibly was directed at the tactics of defense counsel. The prosecutor also was entitled to rebut Tisius' argument that his remorse showed he did not deliberate.

► ***Stealing Third Offense***

***Terry J. Woods v. State*, No. SC87028 (Mo. Banc December 26, 2005).** The Court overturned movant's conviction of Stealing third offense after the state intro-

duced evidence that movant previously had entered two guilty pleas on the same date in the same court before the same judge and with representation from the same attorney for the prior two convictions of stealing. Section 570.040, requires the previous guilty pleas to be on separate occasions. This statute, as first enacted, did not contain the "separate occasion" language but merely specified that every person who was "previously convicted of stealing two times" was subject to an enhanced penalty. Section 570.040, RSMo 1978. The general assembly subsequently changed this language to include the "separate occasion" requirement, and effect must be given to that amendment. In addition, because the statute is ambiguous as to whether it intends to require that the pleas be on separate occasions or that the crimes be on separate occasions, the rule of lenity gives Woods the benefit of the lesser penalty.

**MISSOURI EASTERN DISTRICT**

► ***Due Process – Inconsistent Theories of Prosecution***

***Antoine Bankhead v. State*, No. ED84879 (Mo. App. E.D. January 10, 2006).** The prosecutor's use of factually inconsistent theories to secure convictions of three different defendants for the same robbery and murder violates the principles of due process. See ***Smith v. Groose***, 205 F.3d 1045 (8th Cir. 2000), *cert. denied*, 531 U.S. 985 (2000). Here, similar to ***Groose***, the Prosecutor selectively presented contradictory evidence and arguments in three different cases depending upon which defendant was before the trial court. The only consistent theory argued by the Prosecutor in all three cases was the identity of the shooter. It was the identity of the accomplice who accompanied Shadwick that varied, depending upon which defendant was being prosecuted.

► ***Kidnapping – Interference with Performance of a Governmental Function***

***Melissa A. Flores v. State*, No. ED86069 (Mo. App. E.D. January 10, 2006).** The motion court erred in denying the postconviction claim that the facts stated at the plea proceeding did not establish movant committed the charged acts of kidnapping. A parent's removal of his or her child from "court ordered care, custody and control" does not constitute "interference with the performance of any governmental or political function," an essential element of the offense of kidnapping. The comments to the Model Penal Code indicate that interference with political and governmental functions reaches situations of political terrorism and the like, such as the abduction of witnesses, candidates, party leaders, officials, and voters. The

**MISSOURI EASTERN DISTRICT continued*****Melissa A. Flores v. State continued***

removal of the children from "court ordered care, custody and control" was not an act of political terrorism or the like. Additionally, the comments to the Model Penal Code state that cases where a parent out of affection takes her child away from another parent or lawful custodian are excluded from the purview of the kidnapping statute. In this case, the prosecutor had dismissed counts related to Interference with Custody.

► ***Bifurcated Trials – Issues of Probation and Parole***

**State v. Timothy M. Prosser, No. ED85733 (Mo. App. E.D. December 20, 2005).** Trial court properly denied defendant's request to inform the jury that any sentence imposed for first-degree trafficking would be served without parole. There is nothing in the new bifurcation statute that justifies a departure from the settled law that issues of probation and parole are not for the jury's consideration.

**MISSOURI WESTERN DISTRICT**

► ***Statutory Sodomy – Corroboration Rule***

**State v. Joseph MacDaniel Peters, No. WD64881 (Mo. App. W.D. January 17, 2006).** The Court upheld defendant's conviction of two counts of first-degree statutory sodomy of a child less than twelve following a bench trial. The victim's trial testimony had no contradictions relating to an essential element of first-degree statutory sodomy, so corroboration of the victim's testimony was not required and there was sufficient evidence to sustain the conviction.

► ***Search and Seizure – Scope of Consent***

**State v. Fred E. Cromer, No. WD64674 (Mo. App. W.D. December 27, 2005).** The Court reversed defendant's convictions for two counts of possessing chemicals with the intent to manufacture methamphetamine, section 195.420, two counts of possession of drug paraphernalia with the intent to manufacture methamphetamine, section 195.233, one count of possession of pseudoephedrine, section 195.246, RSMo Cum Supp. 2001, and one count of manufacturing a controlled substance, methamphetamine. Where police were allowed entry into a house's living room and given permission to wait for the homeowner's arrival, the scope of consent was exceeded by police officers' actions of watching the

driveway through bedroom window, waiting for occupants of a car parked in driveway to enter garage, entering garage, and arresting occupants inside the garage. The homeowner's consent to search the home rendered admissible evidence found in the home, despite the officers' actions which violated another resident's Fourth Amendment rights by unlawfully entering and arresting the resident in the garage. Evidence in plain view of the officers in the garage was inadmissible because officers were not lawfully in garage since they had consent to wait in the living room but exceeded that scope of consent by entering the garage.

► ***Rape Shield/ Victim's Psychological Records***

**State v. James Roger Davis, No. WD64128 (Mo. App. W.D. December 27, 2006).** The Court reversed defendant's conviction of second degree statutory sodomy, finding the trial court in refusing to review *in camera* the victims' psychological records and determining the relevance, if any, of the documents. It also erred in not allowing defendant to cross-examine the victim about past false allegations of rape. Prohibiting evidence and not allowing questioning on the basis of the rape shield law was incorrect because the statute is inapplicable. Evidence of prior allegations by an alleged victim of sexual abuse if that evidence is offered to impeach the credibility of the victim as a witness does not violate the rape shield law.

► ***Evidence of other Crimes – Bernard/ Failure to Preserve Evidence***

**State v. Allen B. Berwald, No. WD64445 (Mo. App. W.D. December 27, 2005).** The Court reversed defendant's conviction of statutory rape in the first degree and one count of statutory sodomy in the second degree, both concerning his minor adopted daughter. Trial testimony of two of defendant's adult daughters regarding uncharged acts of sexual abuse he purportedly committed against them as children some twenty to thirty years before was not logically relevant to the issues before the jury. Their testimony did not relate to any criminal offense for which he was on trial and was not admissible to identify defendant as the person who committed the charged crimes under the narrow signature *modus operandi*/corroboration exception recognized in ***State v. Bernard***, 849 S.W.2d 10 (Mo. banc 1993), and its progeny. The State failed to overcome the presumption of prejudice because it did not show that there is no reasonable probability that the jury would have acquitted but for the erroneously admitted evidence. The limiting instruction was wholly ineffective to protect



## MISSOURI WESTERN DISTRICT continued

*State v. Allen B. Berwald continued*

defendant's right to be tried only for the offenses with which he had been charged and for which he was on trial. Given the overall weakness of the State's and the large amount of defense evidence he presented tending to show his innocence, there is a substantial likelihood that the jury would have acquitted him on all six charges against him (rather than on only four) had the trial court properly excluded the highly prejudicial which undoubtedly (but impermissibly) bolstered the rest of the State's case against defendant.

The trial court did not abuse its discretion in denying defendant's motion to dismiss all charges against him or to grant him a new trial based on the State's failure to preserve a microcassette audiotape of the victim's initial allegations which had been recorded by her mother. Although the State's handling of this evidence was sloppy and perhaps negligent, defendant failed to show that the audiotape in question was exculpatory or that the State acted in bad faith in failing to preserve it.

## MISSOURI SOUTHERN DISTRICT

► ***Ineffective Assistance of Counsel – Court's findings of Ineffectiveness Clearly Erroneous***

**Larry Schaal . State, No. 26798 (Mo. Banc December 30, 2005).** In this State appeal, the Court reversed the circuit court's finding of ineffective assistance of counsel following the retrial of defendant of forcible rape of a child, some 15 years after the original child. The Court findings of ineffective assistance of counsel for failing to call and cross-examine witnesses that were clearly erroneous.

► ***Guilty Plea - Voluntariness***

**Brian K. Thomas, v. State, No. 26952 (Mo. App. S.D. December 20, 2005).** The Court affirmed the denial of movant's Rule 24.035 motion finding his guilty plea was voluntary. Movant was fully advised by everyone present at the plea hearing that the Missouri court had no control over the decision by Arkansas authorities to return movant to Arkansas for disposition of Arkansas charges. Any alleged deficiency in this regard could not have affected the voluntariness of Movant's plea.



## PROSECUTING ATTORNEY &amp; CIRCUIT ATTORNEY'S RETIREMENT FUND

## Board Members:

**John Richards**, Lincoln County  
**Bob George**, Lawrence County  
**Kevin Barbour**, Butler County  
**Kevin Crane**, Boone County  
**Doug Roberts**, Livingston County

For questions regarding the retirement system please contact:

**Katrina Farrow**, Executive Secretary  
 PO Box 104896  
 Jefferson City, MO 65110  
 Phone: (573) 556-7985  
 Fax: (573) 556-7986

## MOP\$.MO.GOV

The MOPS website contains conference information (ie. dates, registration, agenda and CLE credits), MOPS and Traffic Safety newsletter archives, the 2005 legislative summary, Prosecuting Attorney contact information and much more.

<http://www.mops.mo.gov/>





## JOHN RICHARDS

John Richards was born and raised in Pleasant Hill, IL. He attended Southern Illinois University—Edwardsville, with a dual major in Government & Public Affairs and History. He received his J.D. from the University of Missouri—Columbia in 1986.

Following law school he was hired as an associate by a local attorney. He initially ran for Prosecuting Attorney as a way to gain trial experience and to assist in developing his civil practice. He is now a full-time prosecutor and “wouldn’t want it any other way.”

Richards enjoys the opportunity to hold individuals accountable for their actions and to make a difference in his community. “It is my intention to remain the Prosecuting Attorney of Lincoln County until the voters tell me it is time to move on.” Richards is honored to have served the longest tenure of any Prosecutor in his county’s history.

“I believe as prosecutor’s we are the champion of the people and we should be proud every day of the job we do and the service that we provide our communities.”

Richards serves as Chairman of the Prosecutors Retirement System, is a member of the Sexual Violent Predators Unit-Prosecutor’s Sub-committee, and is a member of the Lincoln County Family Violence Council—Law Enforcement Sub-committee.

With 15 years of experience, Richards would advise new prosecutors not to charge something because the police want it charged. “Remember, cases do not get stronger after they are charged.”

He recalls this amusing moment in the courtroom. “After a Judge in a preliminary hearing sustained several of my objections, the pro-se defendant asked, ‘Your Honor, do you use drugs?’.”

John and his wife Denise have three children, Mackenzie 11, Jordan 7, and Cavanaugh 7. Denise is a Probation and Parole Officer for the State of Missouri. She is also a Qualified Substance Abuse Professional and teaches SATOP and ADEP classes.

In his free time John enjoys playing softball, fantasy baseball and hockey. He enjoys reading, but admits that he doesn’t get to read as often as he would like.

- ▶ Last great book he read: *The Five People you Meet in Heaven*, by Mitch Albom
- ▶ Favorite musical artist: Kenny Chesney; Lynrd Skynrd
- ▶ Favorite sports team: Chicago Cubs

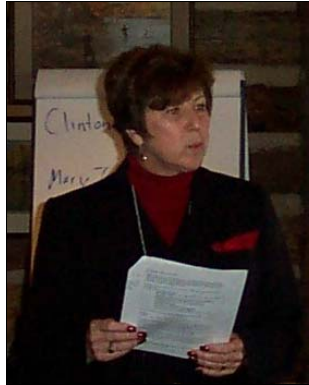


# ELECTED PROSECUTOR MEETING 2006

January 12-13, 2006



Donna Deetz & Tammy Chute—Bringing Focus & Direction into the PA's Office



Nancy Griggs—Roundtable with State Courts



Gary Sherman—Director MO Social Services



Patrick Morgan—Prosecuting Securities Cases



Prosecutor Roundtable Discussion—Mike Wright, Warren County Prosecutor and John Richards, Lincoln County Prosecutor



Tamra Bessette—US Department of Health & Human Services



Marta Fontaine—MOSAFE Program



Enhancing State & Federal Prosecutor Communications Roundtable—Catherine Hanaway, US Attorney, MO Eastern District & Todd Graves, US Attorney, MO Western District



## MOPS TRAINING 2006

March 1-3, 2006	Protecting Lives, Saving Futures	Courtyard by Marriott Columbia, MO
April 12-14, 2006	MOPS Spring Statewide Training	Lodge of Four Seasons, Lake Ozark, MO
May 31-June 2, 2006	DWI/Vehicular Homicide Training	Tan-Tar-A Resort, Osage Beach, MO
July 31-August 3, 2006	Trial Advocacy School	Capital Plaza Hotel Jefferson City, MO
August 30-September 1, 2006	MOPS Fall Statewide Training	Lodge of Four Seasons, Lake Ozark, MO

## NATIONAL CLE TRAINING February-March 2006

February 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

Feb 5-9	Evidence for Prosecutors	NCDA	San Francisco, CA
Feb 6-11	ChildProof	NDA	NAC, Columbia, SC ▼
Feb 13-17	Prosecutor Bootcamp	NDA	NAC, Columbia, SC ▼
Feb 19-23	Experienced Prosecutor Course	NCDA	Chandler, AZ
Feb 21-24	Cross Examination	NDA	NAC, Columbia, SC ▼
Feb 27-Mar 3	Trial Advocacy I	NDA	NAC, Columbia, SC ▼

March 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
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12	13	14	15	16	17	18
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26	27	28	29	30	31	

Mar 6-9	Jury Selection	NDA	NAC, Columbia, SC ▼
Mar 6-9	Beyond Finding Words: Emerging Issues In Forensic Interviewing	APRI	Tunica, MS
Mar 12-16	White Collar Crime	NCDA	Washington, DC
Mar 13-17	Evidence Based Prosecution of DV Cases	NDA	NAC, Columbia, SC ▼
Mar 19-23	Successful Trial Strategies	NCDA	San Francisco, CA
Mar 20-24	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
Mar 20-24	Finding Words Virginia (Week #1)	APRI	Richmond, VA
Mar 20-24	Finding Words Missouri - Presented by the MO Network Of Child Advocacy Centers		Union, MO
Mar 20-24	Unsafe Havens: Prosecuting Online Crimes Against Children	APRI	Phoenix, AZ
Mar 26-29	33rd National Conference on Juvenile Justice—Tough Cases: Advanced Training for Juvenile Prosecutors	APRI	Denver, CO
Mar 26-30	Prosecuting Drug Cases	NCDA	St Louis, MO
Mar 27-31	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
Mar 27-31	Finding Words Arkansas (Week #1)	APRI	Rogers, AR
Mar 28-31	National Institute on the Prosecution of Sexual Violence	APRI	Memphis, TN

# NATIONAL CLE TRAINING April-June 2006

## April 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

April 2-6	<b>Office Administration Course</b>	NCDA	Chicago, IL
April 3-7	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
April 3-7	<b>Finding Words Virginia (Week #1)</b>	APRI	Richmond, VA
April 6-8	<b>NDA Board of Directors Meeting</b>	NDA	San Diego, CA
April 9	<b>APRI Board of Directors Meeting</b>	APRI	San Diego, CA
April 10-13	<b>Cross Examination</b>	NDA	NAC, Columbia, SC ▼
April 18-21	<b>Elder Abuse</b>	NDA	NAC, Columbia, SC ▼
April 23-27	<b>Meeting Challenges in Prosecution and Victim Advocacy</b>	NCDA	San Diego, CA
April 25-28	<b>Arson and Explosives</b>	NDA	NAC, Columbia, SC ▼

## May 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

May 1-5	<b>Trial Advocacy II</b>	NDA	NAC, Columbia, SC ▼
May 7-11	<b>Prosecuting Homicide Cases</b>	NCDA	Phoenix, AZ
May 8-12	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
May 8-12	<b>Finding Words Delaware (Week #2)</b>	APRI	TBD
May 16-19	<b>Faculty Development</b>	NDA	NAC, Columbia, SC ▼
May 21-25	<b>Government Civil Practice</b>	NCDA	Las Vegas, NV
May 22-25	<b>Courtroom Technology</b>	NDA	NAC, Columbia, SC ▼
May 23-25	<b>Hitting the Mark II: Implementing and Maintaining Community Gun Violence Prosecution Initiatives</b>	APRI	Minneapolis, MN
May 31-June 2	<b>Cybercrime Summit</b>	NDA	NAC, Columbia, SC ▼

## June 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
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June 4-8	<b>Criminal Investigations Course</b>	NCDA	Reno, NV
June 5-9	<b>Bootcamp: An Introduction to Prosecution</b>	NDA	NAC, Columbia, SC ▼
June 5-9	<b>Investigation and Prosecution of Child Fatalities and Physical Abuse</b>	APRI	San Antonio, TX
June 12-16	<b>Trial Advocacy II</b>	NDA	NAC, Columbia, SC ▼
June 12-16	<b>DNA: Basic</b>	NDA	NAC, Columbia, SC ▼
June 18-29	<b>Career Prosecutor Course</b>	NCDA	Charleston, SC
June 19-23	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
June 19-23	<b>Finding Words Virginia (Week #2)</b>	APRI	Richmond, VA
June 26-30	<b>Lethal Weapon</b>	NDA	NAC, Columbia, SC ▼
June 26-30	<b>Finding Words Arkansas (Week #2)</b>	APRI	Rogers, AR

**FOR INFORMATION ON NATIONAL COURSES:** National District Attorneys Association (NDA) - (703) 549-9222 <http://www.ndaa.org/>

American Prosecutors Research Institute (APRI) - (703) 549-4253 <http://www.ndaa-apri.org> National College of District Attorneys (NCDA) - (803) 705-5005 <http://www.law.sc.edu/ncda/>

▼ All expenses including accommodations, transportation and meals are covered or reimbursed by the NAC, and no tuition is charged.  
Please remember that all applications must be signed by the Elected Prosecutor.

# NATIONAL CLE TRAINING July-December 2006

## July 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
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23	24	25	26	27	28	29
30	31					

## August 2006

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27	28	29	30	31		

## September 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
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24	25	26	27	28	29	30

## October 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## November 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

## December 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
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24	25	26	27	28	29	30
31						

July 10-14	<b>Cybersleuth II</b>	NDA	NAC, Columbia, SC ▼
July 10-14	<b>ChildProtect: Trial Advocacy for Child Protection Attorneys</b>	APRI	St Paul, MN
July 17-21	<b>Prosecutor and the Jury</b>	NDA	NAC, Columbia, SC ▼
July 24-28	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
July 24-28	<b>Equal Justice: Investigation and Prosecution of Child Abuse</b>	APRI	Clearwater, FL
July 24-28	<b>Finding Words Missouri - Presented by the MO Network Of Child Advocacy Centers</b>		Columbia, MO
July 28-30	<b>NDA Board of Directors Meeting</b>	NDA	Santa Fe, NM
July 30-Aug 2	<b>NDA 2006 Summer Conference</b>	NDA	Santa Fe, NM
July 31-Aug 4	<b>Trial Advocacy II</b>	NDA	NAC, Columbia, SC ▼

Aug 7-11	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
Aug 14-18	<b>Unsafe Havens II</b>	NDA	NAC, Columbia, SC ▼
Aug 21-25	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
Aug 28-31	<b>Cross Examination</b>	NDA	NAC, Columbia, SC ▼

Sept 6-8	<b>Gangs Symposium</b>	NDA	NAC, Columbia, SC ▼
Sept 10-14	<b>Evidence for Prosecutors</b>	NCDA	Providence, RI
Sept 18-21	<b>NDA Fall Conference</b>	NDA	NAC, Columbia, SC ▼
Sept 25-29	<b>Trial Advocacy I</b>	NDA	NAC, Columbia, SC ▼
Sept 25-29	<b>Finding Words Arkansas (Week #3)</b>	APRI	Rogers, AR
Sept 25-29	<b>Finding Words Virginia (Week #3)</b>	APRI	Richmond, VA

Oct 8-12	<b>National Conference on Domestic Violence</b>	NCDA	Houston, TX
Oct 14-18	<b>Executive Program</b>	NCDA	Park City, UT
Oct 29-Nov 2	<b>Prosecuting Drug Cases</b>	NCDA	New Orleans, LA

Nov 12-16	<b>Prosecuting Homicide Cases</b>	NCDA	Savannah, GA
Nov 13-17	<b>Finding Words Missouri - Presented by the MO Network Of Child Advocacy Centers</b>		Union, MO
Nov 26-30	<b>Prosecuting Sexual Assaults and Related Violent Crimes</b>	NCDA	San Diego, CA

Dec 3-8	<b>Government Civil Practice</b>	NCDA	Las Vegas, NV
Dec 10-14	<b>Forensic Evidence</b>	NCDA	San Francisco, CA



**(FREE TRAINING!)**

## **Multidisciplinary Investigation of Child Abuse, Exploitation and Fatalities**

Presented by:

**Lt. Bill Walsh, retired, Dallas Texas Police Department**

**(International trainer and presenter for the National Center for Missing and Exploited Children;  
DOJ-Office of Juvenile Justice and Delinquency Prevention;  
Law Enforcement and Social Services Agencies, etc.)**

**One-day, intermediate and advanced skill training for those in the child protection community.**

**Topics covered include:**

- **Multidisciplinary investigation of Child Abuse and Neglect**
- **Child death investigations**
- **Interviewing and interrogations**
- **Case management and documentation**
- **Medical and pathological evidence**

**Training will be held at the below listed locations from 8 a.m. to 4:30 p.m. Certificates will be awarded to all attendees. POST law enforcement continuing education units will be available for a small processing fee.**

<b>February 21, 2006</b>	<b>St. Louis</b>	<b>St. Louis University School of Medicine - Learning Resource Center, 3544 Caroline Mall</b>
<b>February 22, 2006</b>	<b>Columbia</b>	<b>Courtyard by Marriott, 3301 LeMone Industrial Blvd.</b>
<b>February 23, 2006</b>	<b>Springfield</b>	<b>Clarion Hotel, 3333 S. Glenstone</b>
<b>February 24, 2006</b>	<b>Blue Springs</b>	<b>Adams Pointe Conference Center, 1400 NE Coronado Dr.</b>

**As seating is limited at each location, please register as soon as possible. You may register by either calling 573-751-5980 or 800-487-1626, or online registration may be accessed at <http://www.dss.mo.gov/stat/train/register.htm>**

**Co-sponsored by the Missouri Children's Trust Fund, the Missouri Task Force on Children's Justice Act, the Missouri Police Chiefs Association, the Missouri Department of Social Services and the St. Louis University School of Medicine-Department of Pathology.**

# 2005 CAFA SEIZURE REPORT

Page    of     
Due Date: January 31, 2006

AGENCY: \_\_\_\_\_

Preparer's Printed Name: \_\_\_\_\_

Preparer's Signature: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Date: \_\_\_\_\_

Total number of CAFA seizures reported to your office? \_\_\_\_\_

Total dollar value of seized property reported to your office? \_\_\_\_\_

Please submit a copy of the annual CAFA seizure report to the MO State Auditor's Office at the time the report is made to the MO Department of Public Safety.

Case Name (or person property was seized from):	Criminal Case Number:	Was this a felony under MO laws?	Property Seized:	Estimated Value of Property Seized:	Place Seized:	Date Seized:	Time Seized:	Disposition of Criminal Case:	Disposition of Seized Property under CAFA?
		<input type="checkbox"/> Yes or <input type="checkbox"/> No							Pending <input type="checkbox"/> Returned Turned Over To: <input type="checkbox"/> Federal Gov't <input type="checkbox"/> State
		<input type="checkbox"/> Yes or <input type="checkbox"/> No							Pending <input type="checkbox"/> Returned Turned Over To: <input type="checkbox"/> Federal Gov't <input type="checkbox"/> State
		<input type="checkbox"/> Yes or <input type="checkbox"/> No							Pending <input type="checkbox"/> Returned Turned Over To: <input type="checkbox"/> Federal Gov't <input type="checkbox"/> State
		<input type="checkbox"/> Yes or <input type="checkbox"/> No							Pending <input type="checkbox"/> Returned Turned Over To: <input type="checkbox"/> Federal Gov't <input type="checkbox"/> State
		<input type="checkbox"/> Yes or <input type="checkbox"/> No							Pending <input type="checkbox"/> Returned Turned Over To: <input type="checkbox"/> Federal Gov't <input type="checkbox"/> State

Protecting Lives, Saving Futures  
Application

County: \_\_\_\_\_

Prosecutor:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

How many years of prosecution experience do you have? \_\_\_\_\_

Law Enforcement Officer:

Name/Title: \_\_\_\_\_

Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

How many years of law enforcement experience do you have? \_\_\_\_\_

Have you completed basic SFST training? \_\_\_\_\_

Return this form via facsimile or mail to:  
Bev Case or Susan Glass, MOPS  
P.O. Box 899  
Jefferson City, MO 65102  
Fax: 573-751-1171  
Phone: 573-751-0619

**Registration Information**

Send check/money order and registration information to:

Ms. Shirley Davis  
U.S. Attorney's Office  
Eastern District of Missouri  
Thomas F. Eagleton Courthouse  
111 S. 10<sup>th</sup> Street, Suite 20.333  
St. Louis, MO 63102  
Phone: 314.539.3891  
E-mail: [shirley.davis@usdoj.gov](mailto:shirley.davis@usdoj.gov)  
Fax: 314.539.2309

Name: \_\_\_\_\_

Title/Position: \_\_\_\_\_

Agency: \_\_\_\_\_

Agency Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Paid by: \_\_\_\_\_

Company Check

Name of Company \_\_\_\_\_

Check # \_\_\_\_\_

Personal Check

Name \_\_\_\_\_

Check # \_\_\_\_\_

Money Order

Company \_\_\_\_\_

Check # \_\_\_\_\_

U.S. Attorney's Office  
111 S. 10th Street, Suite 20.333  
St. Louis, MO 63102



# ISSUES IN PSYCHIATRIC DEFENSES

February 16, 2006  
Millennium Hotel



8:00 a.m. - 4:30 p.m.

## ISSUES IN PSYCHIATRIC DEFENSES: MEDICAL SCIENCE AND TECHNOLOGY

When expert opinion is required to assist the trier of fact, it is in the interest of justice to see that only solid science and well-founded clinical opinion is presented.

By definition, the decision to commit a crime is not a good decision. The capacity of the defendant to make a good decision sometimes is at issue. This seminar will focus on what neuroscience and clinical psychiatry can and cannot do in assessing and describing the cognitive capacities of the defendant.

This will aid prosecutors in deciding whether to make a Daubert challenge to a defendant's expert and in finding the right way to respond in Court.

**Morning Program - Chair, Richard D. Wetzel, Ph.D.**

- Opening Comments

### The Neurological Examination

**William Landau, M.D.**

Professor, Neurology - Division of Adult Neurology  
Former Head, Department of Neurology - WUMS  
Past President, American Board of Psychiatry and Neurology

- EEG - clinical history, the neurological examination, how to detect malingering / misrepresentation of neurological disease, electrical activity in the brain.

### Mechanism of Cell Death

**John W. Olney, M.D.**

John P. Feighner Professor of Psychiatry  
Professor of Pathology and Immunology (Neuropathology)  
Member, Institute of Medicine

- How to kill brain cells, what kills brain cells in animals, and how does that apply to humans.

### MRI and fMRI

**Franz Joseph Wipplid, II, M.D.**

Professor, Radiology - Division of Diagnostic Radiology  
Chief, Neuroradiology Section - WUMS

Adjunct Professor, Radiology

Department of Radiology / Nuclear Medicine

F. Edward Herbert School of Medicine

Uniformed Services University of the Health Sciences, Bethesda, Maryland

and **Joshua S. Shimony, M.D., Ph.D.**

Assistant Professor, Radiology

Division of Diagnostic Radiology

Neuroradiology Section

- Looking at anatomy, cerebral regional blood flow, what can you learn? What do positive results mean? What do negative results mean? Causal connections to violence and crime.

## PET and SPECT

**Mark A. Mintun, M.D.**

Professor, Radiology - Division of Nuclear Medicine  
Professor of Psychiatry

- Physiological / biochemical activity in the brain, what do positive results mean? What do negative results mean? Causal connections to violence and crime.

## Neuropsychological evaluation

**Richard D. Wetzel, Ph.D.**

Professor, Psychiatry - WUMS  
Professor, Neurology  
Faculty, Medicolegal Death Investigator Course  
St. Louis University School of Medicine

- The logic of the neuropsychological examination, what do positive results mean? What do negative results mean? Causal connections to violence and crime.

**When:** February 16, 2006

**Time:** 8:00 a.m. until 4:30 p.m.

**Where:** Millennium Hotel

200 S. Broadway

St. Louis, MO

314.241.9500

Rooms reserved at government rate of \$79 per night, with a tax exempt letter. Mention the conference if making a reservation.

**Cost:** \$25 - includes training and afternoon snack

**Lunch:** On your own

**Parking:** Early bird-arrive before 9 a.m. and leave between 3 - 6 p.m. \$5 per day, otherwise \$8 per day

**Conference registrations must be received by COB 2/9/06**

CLE Certified



**Afternoon Program - Chair, Melissa Swallow, Ph.D.**

## Psychosis and Drug Psychosis

**Nuri B. Farber, M.D.**

Assistant Professor, Psychiatry - WUMS  
Assistant Director, Psychiatry Training Program  
and

**John Newcomer, M.D.**

Associate Professor, Psychiatry - WUMS

- Frying the brain, what happens in psychosis, signs of psychosis

## Psychosis and Violence

**Michael Jarvis, M.D., Ph.D.**

Assistant Professor, Psychiatry - WUMS  
Director, Inpatient Psychiatry Service - B-JH  
and

**Melissa Swallow, M.D.**

Assistant Professor, Psychiatry - WUMS  
Director, Forensic Psychiatry - WUMS

- Giving crazy people a bad name

## Faking Psychosis

**John Rabun**

Instructor, Psychiatry - WUMS  
Forensic Psychiatrist, Missouri Department of Mental Health

- How can one tell if it is real?

## Freedom & Responsibility

**Bad Genes, Bad Environment—So What?**

**C. Robert Cloninger, M.D.**

Wallace Renard Professor, Psychiatry - WUMS  
Professor, Genetics  
Professor, Psychology  
Director, Center for Psychobiology of Personality  
Former Head, Department of Psychiatry  
Member, Institute of Medicine

- Risk factors vs. causation, the difference in the assumptions of lawyers and clinicians.

## Open Session - Questions and Answers

**Melissa Swallow, M.D. and the others**

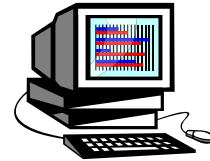
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**Vice-President:** Kevin Crane, *Boone County Prosecutor*  
**Secretary:** Mike Hazel, *Pemiscot County Prosecutor*  
**Treasurer:** Scott Watson, *Newton County Prosecutor*  
**Past President:** Bob Wilkins, *Jefferson County Prosecutor*

**Missouri Attorney General:** Jay Nixon

**Missouri Office of Prosecution Services:**

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**Traffic Safety Resource Attorney:** Susan Glass  
**Conference Coordinator:** Bev Case  
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**Computer Information Specialist:** Jane Quick  
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If you are interested in receiving the  
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E-mail: [Sheri.Menteer@ago.mo.gov](mailto:Sheri.Menteer@ago.mo.gov)

**MISSOURI PROSECUTOR**

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**MISSOURI OFFICE OF PROSECUTION SERVICES  
PO BOX 899  
JEFFERSON CITY, MO 65101**

***Mission Statement: To improve Missouri's Criminal Justice System by promoting professional prosecution by enhancing  
funding and training for prosecutors; by advancing the interests and the image of Missouri prosecutors and to  
facilitate communication among and between prosecutors and the criminal justice community.***